

Evelyn McGregor





Civil Rights Compliance in the Special Supplemental Food Program for Women, Infants and Children(WIC)

Mountain Plains Region
Office of Civil Rights





FNS Vision



- Vision "leading America in ending hunger and improving nutrition and health".
- FNS is an agency of the U.S. Department of Agriculture, created by Congress in 1969.
- FNS administers 15 nutrition assistance programs and manage over a \$65 billion budget.
- Headquartered in Alexandria, Virginia with seven regional offices.
- FNS program touch 1 in 5 Americans each year



Mission of the Food & Nutrition Service

The FNS mission is to increase food security and and reduce hunger in partnership with Cooperating organizations by providing children and low-income people access to food, a more healthful diet, and nutrition education in a manner that supports American agriculture and inspires public Confidence.



Goals of the Civil Rights Program



Prevent discrimination and ensure equal treatment for all applicants and beneficiaries under the law.

Impart information regarding CR laws, rights and responsibilities.

Elimination of illegal barriers that prevent or deter people from applying and receiving benefits.

To ensure dignity and respect for all in the delivery of service and benefits.

What is Discrimination?

Discrimination is defined as different treatment which makes a distinction of one person or a group of persons from others; either intentionally, by neglect, or by the actions or lack of actions based on....



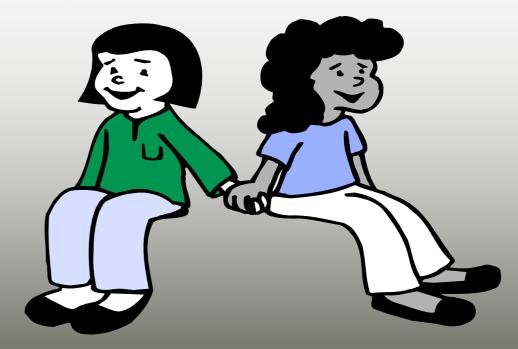
- Disparate treatment Because of protected class, someone is treated differently – may sue agency.
- Disparate Impact Discriminatory result on a protected class results from action or rule – appeal to Federal agency.
- Reprisal/Retaliation Negative treatment due to prior civil rights activity by an individual or his/her family or known associates or for cooperating with an investigation – may sue agency



6 Protected Classes in the WIC

Program

- Race
- Color
- Sex
- Age
- National Origin
- Disability



Civil Rights Laws & Executive Orders

- Executive Order 12250, Department of Justice
- Title VI of the Civil Rights Act of 1964 Race, Color, National origin
- Title IX of Education Amendments of 1972 Sex
- Section 504 of Rehab. Act of 1973 Disability
- Age Discrimination Act of 1975 Age
- Civil Rights Restoration Act of 1987
- Americans with Disabilities Act, 1990
- Limited English Proficiency, Executive Order 13166,



No person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial Assistance.

42 U.S.C. s 2000d





7 Areas of Civil Rights Compliance

- Assurances
- Public Notification System
- Data Collection
- Training
- Compliance Reviews
- Civil Rights Complaints
- Limited English Proficiency



Civil Rights Assurances



To qualify for Federal financial assistance, the program application must be accompanied by a written civil rights assurance that the program will be operated in compliance with CR laws and implementing regulations, policies and instructions. No discrimination based on race, color, national origin, age, sex, or disability Compile data, maintain records, submit reports, and Allow reviews & access upon notice of a reasonable time



- The assurance is binding on the Program applicant and it's successors, transferees, and assignees, as long as they receive any assistance from USDA.
- The state agency signs the agreement with the Federal government.
- The WIC Clinic signs the agreement between their organization and the state agency.
- Any services/contracts to do business regarding the CAACFP must be accompanied with an CR assurance.



 State agencies, and WIC Clinics are required to submit a public announcement regarding the availability of the program, the non-discrimination policy statement and the procedure to file a complaint in areas which will reach minority populations and low- income households, including hospitals and clinics..

Public Notification System

Each State Agency must:

- Use forms of communication such as letters, leaflets, brochures, bulletins, news papers, radio and television announcements to disseminate program information and civil rights requirements.
- Convey the message of equal opportunity in photos and other graphics used to provide an information.



 Information distributed to the public shall inform participants and applicants, particularly minorities, women, and grassroots organizations, of any significant program changes.





Public Notification System

- Provide information and other materials such as applications, eligibility criteria, and procedures for delivery of benefits in languages other than English, as needed.
- Include a statement that the program is available to eligible persons without regard to race, color, national origin, age, sex, or disability on all FNS and recipient publications, poster, etc. Including web-sites.
- The information shall include the nondiscrimination statement and the procedure to file a complaint.



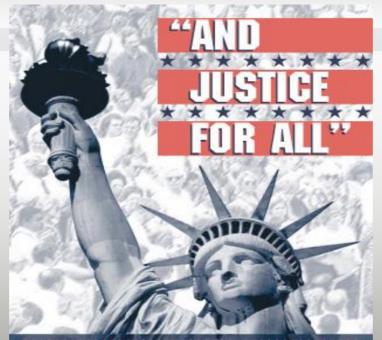
Public Notification System

Local agencies and clinics must...

- Display the nondiscrimination poster, "And Justice For All" in a prominent place, such as clinic waiting rooms, warehouse distribution centers, and other facilities frequented by participants and applicants.
- Make program regulations and guidelines available to the public upon request.







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And then bearing a bound



- Ensure that appropriate staff, volunteers or other translation resources are available to serve participants or applicants.
- Information distributed to the public shall inform participants and applicants, particularly minorities, women, and grassroots organizations, of any significant program changes.



Provide participants and applicants access to civil rights information including:

Procedures for filing complaints

Program specifics

Rights and Responsibilities of participants and applicants.

USDA

Nondiscrimination Statement

In accordance with Federal Law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating against its customers on the basis of race, color, national origin, sex, age, or disability in any program or activity conducted or funded by the Department. If you wish to file a Civil Rights program complaint of discrimination, complete the form. You may also write a letter containing all of the information requested in the form.



USDA Program Discrimination Complaint Form, found online at

http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form.

Complaint Information

Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish).

USDA is an equal opportunity provider and employer.



Data Collection and Maintenance

- State and local agencies are required to obtain data by race and ethnic category on potentially eligible populations, applicants, and participants in their service area.
- The data will be used to determine how effectively FNS programs are reaching potential eligible persons and beneficiaries, and identify where additional outreach is needed, and assist in the selection of locations for compliance reviews.

Data Collection and Maintenance

- The systems for collecting and reporting racial/ethnic participation data must be established by each State agency. The system must contain a provision of privacy to protect the data from unauthorized use.
- Documentation for the data collected must be on file and maintained for 3 years plus the current year.



- Self- identification is the preferred method for determining the racial and ethnic identity of an applicant.
- If an applicant refuses to self-identify their racial/ethnic group once it has been explained that the information is optional and

only used for statistical reporting purposes.



- Documentation for the data collected must be on file and maintained for 3 years plus the current year.
- Data collected must be restricted to authorized personnel only.

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Where to Locate Community Data

See Census Quick Facts:

http://quickfacts.census.gov/qfd/ information

for each county by state.

• See Census Bureau web-site:

www.census.gov for other data that are available.



State Agencies are responsible for training all staff involved in the administration of the program in all areas of civil rights compliance including...

- Collecting and using data.
- Effective public notification systems.
- Complaint procedures.
- Customer Service.
- Conflict Resolution.



Compliance Reviews

State Agencies must conduct compliance reviews to...

Determine the procedures used by local agencies.

 Evaluate the effect of those procedures on program applicants and participants.



Compliance Reviews

 These reviews are to assure local agency, clinic and food vendor/distribution site compliance.

 They must be conducted as part of each State agency's procedure to assure compliance with all rules and regulations.



Compliance Reviews

There are three types of Compliance Reviews...

- Pre-award Compliance Review
- Routine Compliance Review
- Special Compliance Review

Pre-award Compliance Reviews

State agencies must perform thorough reviews of applications from previously un-funded local agencies to determine if the applicants are in compliance with civil rights provisions.

Pre-award Compliance Reviews

 Pre-award reviews are based on information provided by applicants in their official application for program funds.

 On-site reviews to determine civil rights compliance are to be conducted when the State agency cannot determine compliance based on the information from the completed application.

Pre-award Compliance Reviews

State agencies shall review local agency applications to ensure that...

- The local agency has corrected all past civil rights problems or noncompliance situations.
- The Civil Rights Assurance is included in all State-Local Agency Agreements.

Pre-award Compliance Reviews

- Civil rights complaints are being handled in accordance with procedures outlined in FNS 113-Civil Rights Instruction.
- Clinic sites, certification offices, vendors, and other food distribution sites do not deny access to any person because of his or her race, color, national origin, age, sex, or disability.

Pre-award Compliance Reviews

 Appropriate staff, volunteers or other translation resources are available in areas where a significant proportion of non-English or limited English speaking persons reside.

 The description of the racial/ethnic makeup of the service area is included in the application.

 Are completed as part of the overall Management Evaluation (ME) process.

Determine civil rights compliance.

 Evaluate all phases of the operation based on the current ME and review requirements as specified in 7 CFR 246.19 and 247.21.

 State agencies must review local agencies, clinics, and food vendors as required by current regulations.

 FNS Regional Offices (FNSRO) will review all State agencies within their region and a sampling of local agencies as required by the current regulations.



Possible problems in the local agencies' program operations that may indicate a need for review by FNSRO are...

- 1. An unusual fluctuation of minority participation.
- 2. The number of valid discrimination complaints filed against the agency in the last three years.



- Indications of program problems received during discussions with State officials or other interested parties.
- Findings from previous civil rights reviews by the State agency.
- 5. Previously un-reviewed local agencies.
- 6. Newly approved agencies.
- 7. Service areas with significant minority populations.



 Civil rights compliance is one phase of the total review effort. Compliance may be determined during a routine review of the participating agency.



When review of a State agency is performed, the following items must be determined...

- 1. Is the agency meeting its requirement to review its local agencies?
- 2. Are all aspects of civil rights compliance covered in the reviews being performed?
- 3. Does the data collection system result in valid counts of actual participation?



- 4. Are uniform program requirements applied to all local agencies?
- 5. Is there an adequate public notification system in place?
- 6. Is the complaint procedure adequate?
- 7. Is training provided to all new State agency employees and to current employees to assure competence in civil rights enforcement?



8. Are specific civil rights requirements being met? For example...

Display of "And Justice for All" poster

No separate waiting facilities

No segregated appointment schedules

9. Does the State agency provide civil rights training to its local agencies?

10. Are operational procedures, site locations, and hours of operation of a local agency or clinic designed to protect against discrimination based on race, color, national origin, age, sex, or disability?



- 11. Are denied applications disproportionately composed of minority applicants?
- 12. Are food vendors serving all persons equally and are WIC Program participants treated the same as other customers?
- 13. Are CSFP(Commodity Supplemental Food Program) participants treated the same at CSFP distribution sites?



When a review of a local agency if performed, the following items must be determined...

1. Do all persons have an equal opportunity of participate in the program regardless of race, color, national origin, age, sex or disability?



- 2. Have case records been coded by racial/ethnic origin?
- 3. Has the local agency conducted civil rights training for its staff?
- 4. Are project areas displaying the "And Justice For All"poster?
- 5. Is program information being provided to applicants, participants, grassroots organizations or similar minority groups?



- 6. Is the nondiscrimination statement being included on all printed materials such as applications, pamphlets, forms or any other materials distributed to the public?
- 7. Is racial/ethnic data being collected by actual count and maintained in file for 3 years?

8. Are civil rights complaints being handled in accordance with procedures outlined?

State and local agency routine compliance review reports must be maintained in the reviewer's office and are subject to review when that agency's compliance is evaluated.



Findings in the compliance report which indicate noncompliance with civil rights requirements shall be handled according to the procedures for resolution of noncompliance.



Focus on particular concerns, issues, or problems suggesting probable noncompliance, and are conducted by

the USDA, FNS Civil Rights Division





Special Compliance Reviews

Are conducted when....

- Information is available indicating a need for indepth examination of program activities and procedures at a specific agency or location.
- 2. Statistical data indicate that a particular racial group is excluded from participation in the program.





 A report of noncompliance made by another Federal agency needs to be substantiated.

4. Follow up is needed on a previous special review.

5. A pattern of discrimination complaints has developed.



6. Statistical data indicates that a particular minority group is not participating in or benefiting from the Program to an extent indicated by the population potentially eligible to participate in or benefit from the Program.



7. The Director of the USDA, FNS Office of Civil Rights, the Administrator of FNS, or the Secretary of Agriculture requests a review.





Special Compliance Reviews

Reports of noncompliance made by other agencies need to be substantiated.

Patterns of complaints of discrimination have developed that require follow-up.

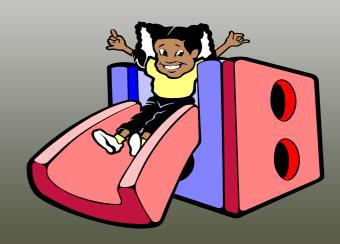


All written or verbal complaints alleging discrimination on the basis of race, color, national origin, sex, age or disability shall be forwarded to FNS Regional office or the Secretary of Agriculture.



Regardless of where the complaints are filed, they must be forwarded immediately within 5-days of receipt to the Secretary of Agriculture, office of Civil Rights; Washington D.C 20250.

A preliminary inquiry will be conducted on all complaints to substantiate or refute the allegations.



Complaints of Discrimination

 Any person alleging discrimination based on race, color, national origin, sex, age or disability has a right to file a complaint within 180 days of the alleged discriminatory action.











Complaints of Discrimination

All civil rights complaints, written, verbal and anonymous shall be accepted and forwarded to the Secretary of Agriculture, office of Civil Rights.



All civil rights complaints should include the agency or individual the complaint is alleged against and the basis of the discrimination.

Anonymous complaints, written or verbal, should be accepted and forwarded to FNS as well.

Complaints of Discrimination

Verbal complaints also include those taken via telephone. The person to whom the allegations are made should be sure to collect the following information....

The following information should be included in a Civil Rights Complaint....

- Name, address, and telephone number of the complainant.
- Specific location and name of the entity delivering the service or benefit.
- Nature of the incident or action that led the complainant to feel discrimination was a factor, or an example of the method of administration which is having an effect on the public, potential participants, or participants.

The following information should be included in a Civil Rights Complaint Continued...

- The basis on which the complainant feels discrimination exists (race, color, national origin, sex, age or disability)
- The names, titles, and business addresses of persons who may have knowledge of the discriminatory action.
- The date(s) during which the alleged discriminatory actions occurred, or if continuing, the duration of such actions.



A person who do not speak or write English as their primary language, and have a limited ability to understand English. Recipients of Federal financial assistance have a Responsibility to take reasonable steps to ensure that Individuals have meaningful access To their programs and activities. No eligible individual should be turned away because of their inability to read, write or understand the English language.



Limited English Proficiency



Where a significant number or proportion of the population eligible to be served needs service or information in a language other than English in order to be informed of or to participate in the program, the recipient shall take reasonable steps to provide information in appropriate language to such persons.





Limited English Proficiency



Factors to consider in Addressing Limited English Proficiency (LEP)...

- Number of LEP individuals participating in the Program.
- Frequency of contact with the Program.
- Nature and importance of the Program.
- Resources available.



"If I do not want what you want, please try not to tell me that my want is wrong.

Or if I believe other than you, at least pause before you correct my view.

Or if my emotion is less than yours, or more, given the same circumstances, try not to ask me to feel more strongly or weakly.

Or if I act, or fail to act, in a manner of your design for action, let me be.

I do not, for the moment at least, ask you to understand me.

That will come only when you are willing to give up changing me into a copy of you."

Adapted from: Please Understand Me by David Keirsey and

Marilyn Bates



No otherwise qualified disabled individual in the United States...shall, solely by reason of his/her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Disabilities Defined

A person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is



regarded as having such an impairment

• Major life activity means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

Implementing the Rehabilitation

Act

- Section 504 prohibits the use of criteria or methods of administration that discriminates or have the affect of different treatment on the basis of a persons disability.
- Equal access must be granted to the programs benefits and services.
- A recipient of Federal financial assistance shall make a reasonable accommodation to the known physical or mental limitations of an otherwise qualified disabled individual.



Disabilities Access

A recipient shall operate each program or activity so that program or activity, when viewed in it's entirety, is readily accessible to and usable by qualified disabled individuals. Generally persons with allergies, food intolerance and those who are obese are not considered disabled unless their condition substantially limits one or more major life activity



- Parents requesting a special diet because of an allergy must provide medical certification from a certified allergist on the need for a special diet.
- Services shall be provided in the most integrated setting appropriate to the needs of the disabled individual. The school is responsible for assisting disabled students where assistance is needed.



- An agency or recipient may not deny an opportunity to participate in a Federally funded program because of a disability.
- A person may not be denied benefits or excluded from a program just because he/she has a disability.
- Services must be provided in the most integrated setting appropriate. At times different or special treatment may actually be necessary in order to ensure effective aids, benefits, and services.



Evelyn L. McGregor - Director

(303) 844-0307

Fax. (303) 844-6205